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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO-3322-2015 (O&M)

Date of decision : 30.03.2016

Union of India and another

...Appellants

Versus

Rajinder Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Jatinder Jit Kaur, Advocate
for the appellant(s)-Union of India.

Mr. Satbir Rathore, Advocate
for respondent Nos.1 to 3.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

AMIT RAWAL, J. (ORAL)

The appellant(s)-Union of India is aggrieved of the dismissal of the objections filed under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter called 'the 1996 Act') for setting aside the Award dated 25.07.2011.

The notification under Section 3-A of the National Highways Act, 1956, for widening of the National Highway No.1-A from Jalandhar to Pathankot was promulgated on 24.12.2004. The Competent Authority assessed the amount of compensation @ ₹ 40,000/- per marla in respect of land situated

in Village Khak, Tehsil Dasya, District Hoshiarpur.

Aggrieved of the aforementioned assessment, the landowner(s) as per the provisions of Section 3G(5) of the National Highway Act, 1956, sought reference, by referring the matter to the Arbitrator. The Arbitrator enhanced the amount of compensation @ 1,50,000/- per marla in essence, there is an increase of ₹ 1,10,000/- per marla and also assessed the compensation @ ₹ 450/- per sq. ft., for the structure and shifting of structure @ ₹ 20,000/-. However, further assessed the business loss to the tune of ₹ 1,50,000/-. Over and above the aforementioned enhancement, the Arbitrator also observed that the landowners shall be entitled to solatium @ 30% and interest @ 9%, 15% and subsequent 18 %.

Ms. Jitender Kaur, learned counsel appearing on behalf of the Union of India submits that the landowners have failed to prove the prevailing market value of the land as no sale deed or any other evidence has been brought on record, even the compensation viz-a-viz the shifting of the structure and the business loss was on the higher side, as no assessment, much less, report of the surveyor has been brought on record. The landowners are not entitled to solatium as determined by the Arbitrator, but only under the provisions of Sections 23(2) and 28 of the Land Acquisition (Amendment) Act, 1984 (hereinafter called 'the 1984 Act') and in view of the judgment rendered by the Division Bench of this Court in **“M/s Golden Iron and Steel Forging V/s Union of India and others” 2011 (4) RCR (Civil) 375**, thus, prays for setting aside of the Award.

Mr. Satbir Ratore, learned counsel appearing on behalf of the landowners submits that the Award of the Arbitrator is fair, legal and justified

and based upon the attenuating circumstances and factors, in essence, the land acquired in respect of the village adjacent to village Khokhar, compensation has been assessed more than what has been assessed by the Competent Authority, and rightly so, by taking into consideration prevailing the collector rate, the Arbitrator enhanced the amount of compensation @ ₹ 7,00,000/- from @ ₹ 1,50,000/-.

I have heard the learned counsel for the parties and appraised the paper book and of the view that view expressed by the Arbitrator viz-a-viz the determination of the amount of compensation from ₹ 40,000/- per marla to ₹ 1,50,000/- by applying the cut of 50%, by taking into consideration the market rate at the time of passing of the Award is fair, legal and justified. In view of compensation awarded by taking into consideration Award passed in respect of land situated adjacent villages.

However, the landowners are not entitled to the solatium as awarded by the Arbitrator, but shall be entitled to the statutory benefits under Sections 23 (2) and 28 of the 1984 Act and in view of the judgment rendered by the Division Bench of this Court in ***“M/s Golden Iron and Steel Forging's case*** (supra).

With the aforementioned observations, the Award of the Arbitrator is modified and the appeal is disposed of in the aforementioned terms.

30.03.2016
yogesh

(AMIT RAWAL)
JUDGE